

A SUBSTITUTE RESOLUTION BY

03- *R* -0700

CITY UTILITIES COMMITTEE

A RESOLUTION TO AUTHORIZE PAYMENT OF PENALTIES IMPOSED BY THE ENVIRONMENTAL PROTECTION DIVISION OF THE DEPARTMENT OF NATURAL RESOURCES OF THE STATE OF GEORGIA (EPD) IN THE AMOUNT OF EIGHT THOUSAND FIVE HUNDRED DOLLARS AND 00/100 (\$8,500.00) AS A PENALTY FOR AN ALLEGED VIOLATION OF THE GEORGIA WATER QUALITY CONTROL ACT RESULTING FROM AN UNPERMITTED DISCHARGE OF RAW SEWAGE TO THE WATERS OF THE STATE ON FEBRUARY 22, 2003 FROM A MANHOLE LOCATED AT CHASTAIN PARK; TO IDENTIFY THE SOURCE OF FUNDING; AND FOR OTHER PURPOSES.

WHEREAS, on February 22, 2003 the City experienced a violation of unpermitted discharge of approximately 8,250 gallons of raw sewage to the waters of the State (Nancy Creek) from the manhole located in Chastain Park at Powers Ferry Road as set out in Exhibit "A" hereto; and

WHEREAS, the EPD Compliance Order requires payment by the City of Atlanta of \$8,500; and

WHEREAS, the Department of Watershed Management of the City does not dispute the fact this violation of unpermitted discharge did occur; and

WHEREAS, the payment to EPD of this assessment by the City does not constitute a finding or adjudication, is not to be evidence of a violation of state or federal laws by the City, nor does the City by its consent agree to any violations of state or federal laws or admit any liability to any third party or parties; and

WHEREAS, funds for this purpose are available in account number 2J01-529017-Q31001; and

WHEREAS, it is deemed to be in the interest of the City to accept the proposed penalty and to pay the incident assessments to them.

NOW, THEREFORE, BE AND IT IS RESOLVED BY THE COUNCIL OF THE CITY OF ATLANTA, as follows:

Section One: That the Chief Financial Officer of the City is authorized to issue a check in the amount of Eight Thousand Five Hundred Dollars and 00/100 (\$8,500.00) payable to the **State of Georgia** for penalties imposed pursuant to the Expedited Enforcement Compliance Order at the discretion of the Environmental Protection Division of the Department of Natural Resources of the State of Georgia; and

Section Two: That the said payments be chargeable to Account Number 2J01 529017 Q31001.

EXHIBIT A

The City is subject to stipulated penalties for an Expedited Enforcement Compliance Order as follows:

Unpermitted Discharge and Non-Compliance with the NPDES Permit

| Date | Facility | Spill/gallons | Penalty | Comment |
|-------------|-----------------|----------------------|----------------|----------------|
| 02/22/03 | Chastain Park | 8,250 | \$8,500 | |

Ben Tanke

Georgia Department of Natural Resources

Environmental Protection Division, Water Protection Branch
4220 International Parkway, Suite 101, Atlanta, Georgia 30354

Permitting, Compliance and Enforcement Program

404/362-2680
FAX: 404/362-2691

March 17, 2003

Mr. Rob Hunter, Deputy Commissioner
City of Atlanta
Department of Watershed Management
Suite 5400, City Hall South
55 Trinity Avenue SW
Atlanta, GA 30335-3029

DEPARTMENT
OF WATER
2003 MAR 20 AM 10:59
OFFICE OF COMMISSIONER

RE: Proposed Expedited Enforcement Compliance
Order (EECO)
Chastain Park spill

Dear Mr. Hunter:

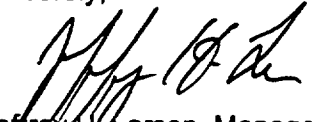
A review of the Environmental Protection Division's (EPD) files indicates that the City of Atlanta (City) has reported one unpermitted discharge of approximately 8,250 gallons of raw sewage to the waters of the State (Nancy Creek) occurring on February 22, 2003 from the manhole located at Chastain Park on Powers Ferry Road. In addition, this discharge was documented by EPD as having not fully met the requirements for spill reporting as specified in the Georgia Rules and Regulations for Water Quality Control Chapter 391-3-6 (Rules) including not posting signs at the manhole and at the State waters' entry point, not including all required information on signs, and removing signs before a minimum of seven days after the spill ceased. This letter is being written to document the fact that this unpermitted discharge and associated non-compliance with the Rules are violations of your National Pollutant Discharge Elimination System (NPDES) permit, the Georgia Rules and Regulations for Water Quality Control, and the Official Code of Georgia Annotated.

EPD is offering to resolve and settle this matter through the enclosed "Expedited Enforcement Compliance Order and Settlement Agreement" (Order). If you agree to the terms of the Order, please sign and return the Order within thirty (30) days of the date of this letter.

In accordance with Chapter 391-1-3 of the Public Participation in Enforcement of Environmental Statutes Rule, EPD plans to issue public notice on this Order once the Order has been signed and returned by the City. After consideration of any comments received during the 30-day comment period, EPD will present to the City an executed Order or an Order with modifications based upon comments received pursuant to the public notice. In the event that no changes are made to the proposed Order previously forwarded to the City, the City will be responsible for returning the settlement amount to EPD in the form of a check for \$8,500, made payable to the Georgia Department of Natural Resources, within 30 days of the execution date of the Order. If you choose not to accept the terms of this Order, EPD may choose to address this matter through other formal enforcement methods.

EPD considers this settlement to be a reasonable resolution to this issue. We urge your prompt attention to this matter.

Sincerely,


Jeffrey H. Larson, Manager
Permitting, Compliance and Enforcement Program

JHL/elw

Attachment

GEORGIA ENVIRONMENTAL PROTECTION DIVISION
PERMITTING, COMPLIANCE, AND ENFORCEMENT PROGRAM
4220 INTERNATIONAL PARKWAY, SUITE 101
ATLANTA, GEORGIA 30354

EXPEDITED ENFORCEMENT COMPLIANCE ORDER AND SETTLEMENT AGREEMENT

PART I: COMPLIANCE ORDER

Permit No.: GA0021482

R. M. Clayton Water Reclamation Center
(Name of Facility)

2440 Bolton Road, N.W.
(Facility Address)

Atlanta, Georgia 30318

Name of Owner, Operator, or Responsible

Official: Mr. Rob Hunter, Deputy Commissioner

Department of Watershed Management

City of Atlanta

(Address)

55 Trinity Avenue S. W., Suite 5400 City Hall South

Atlanta, Georgia 30335-3029

The Environmental Protection Division (EPD) is aware of the fact that City of Atlanta (City) experienced one unpermitted discharge that entered the waters of the State (Nancy Creek). In addition, the City failed to fully comply with Chapter 391-3-6-.5(3)(g) of the Rules and Regulations for Water Quality Control (Rules). The Rules the owner of a Public Owned Treatment Works responsible for a spill or a major spill shall immediately post a notice as close as possible to where the spill or major spill occurred and where the spill entered State waters. The notice shall include at a minimum the date of the spill or major spill, location and cause of the spill or major spill, estimate volume discharged and name of receiving waters, and corrective actions taken to mitigate or reduce the adverse effects of the spill or major spill. The owner shall also post additional notices of the spill or major spill along portions of the waterway affected by the incident (i.e., bridge crossings, trails, boat ramps, recreational areas, and other points of public access to the affected waterway. These notices shall remain in place for a minimum of seven days after the spill or major spill has ceased. The unpermitted discharge to the waters of the State and failure to comply with spill requirements are violations of your NPDES Permit, Chapter 391-3-6. of the Georgia Rules and Regulations for Water Quality Control, and Title 12, Chapter 5 of the Official Code of Georgia Annotated (Code). The following violation noted, in accordance to section 12-5-52. of the Code and its corresponding settlement amount, are listed below:

391-3-6-.06(4)(a) [12-5-52(a)], Settlement \$ 8,500.00
Nature of Violation: 1 unpermitted discharge of approximately 8,250 gallons of raw sewage to the waters of the State (Nancy Creek) occurring on February 22, 2003 from the manhole located in Chastain Park at Powers Ferry Road.

391-3-6-.06(4)(a) [12-5-52(a)], Settlement \$ _____
Nature of Violation: _____

391-3-6-.05 [12-5-29(a)], Settlement \$ _____
Nature of Violation: _____

750-3- _____ [43-51- _____], Settlement \$ _____
Nature of Violation: _____

TOTAL SETTLEMENT AMOUNT \$8,500.00

The City of Atlanta is hereby ordered to correct the violation and pay the settlement amount.

This Compliance Order is issued solely with reference to the Settlement Agreement in Part II of this form. If the Settlement Agreement in Part II is not returned in correct form by the City of Atlanta within 30 days of receipt, this Compliance Order can be withdrawn without prejudice to EPD's ability to file additional enforcement actions for the above violation or any other violations.

Part II: SETTLEMENT AGREEMENT

The Georgia Environmental Protection Division (EPD) offers this Settlement Agreement as an expedited enforcement procedure in order to settle the violation listed in the Compliance Order in Part I of this form subject to the following terms and conditions:

The City of Atlanta, by signing below, certifies under penalty of law that: a) the information submitted in this and all attached documents has been personally examined and that the City of Atlanta is familiar with the information; b) the **CITED VIOLATIONS WILL BE CORRECTED**; c) immediately implement the most current approved Collection and Transmission System Emergency Response Plan and requirements of the Georgia Rules and Regulations for Water Quality Control Chapter 391-3-6-.05; and d) payment of the settlement amount in the form of a check made payable to the Department of Natural Resources for \$8,500 will be remitted within 30 days of the execution of the Order.

Upon EPD final approval of this Settlement Agreement, EPD will take no further action against the City of Atlanta for the specific violation described in this Compliance Order. EPD does not waive any enforcement action by EPD, the State, or any local agencies for any past, present or future violations of the Water Quality Control Rules. This Order does not relieve the City of Atlanta of any obligations or requirements of the Permit.

This Settlement Agreement is binding on EPD and the City of Atlanta once it is signed below. This Settlement Agreement is not negotiable and is effective upon EPD's final approval below. Upon final approval, EPD shall mail a copy of the approved Settlement Agreement to the City of Atlanta signing below.

Final approval of the Settlement Agreement is in the sole discretion of the Director of EPD, or authorized delegate.

BY (print name): _____

TITLE: _____

SIGNATURE: _____

DATE: _____

FINAL ORDER BY EPD this _____ day of _____, 2003.

Harold F. Reheis, Director

COMPLIANCE ORDER NO: _____

TRANSMITTAL FORM FOR LEGISLATION

TO: MAYOR'S OFFICE GREG PRIDGEON

(For review & distribution to Execution Management)

Commissioner's Signature *Jack E. Evans* Director's Signature: _____

From: Origination Dept. **Watershed Management**

Contact (name): Melinda Langston - 330-6773

Committee(s) Purview: City Utilities Committee

Committee Deadline: March 17, 2003

Committee Meeting Date(s): April 1-2, 2003

City Council Meeting Date: April 21, 2003

CAPTION:

A Substitute Resolution to authorize payment of penalties imposed by the Environmental Protection Division of the Department of Natural Resources of the State of Georgia (EPD) in the amount of eight thousand five hundred dollars and no cents (\$8,500.00). As a penalty for an alleged violation of the Georgia Water Quality Control Act resulting from an unpermitted discharge of raw sewage to the waters of the state on February 22, 2003 from a manhole located at Chastain Park; to identify the source of funding; and for other purposes.

BACKGROUND/PURPOSE/DISCUSSION:

On February 22, 2003 the City experienced a violation of unpermitted discharge of approximately 8,250 gallons of raw sewage to the waters of the State (Nancy Creek) from the manhole located in Chastain Park at Powers Ferry Road.

FINANCIAL IMPACT (If Any): \$8,500.00

Mayor's Staff Only

Received by Mayor's Office: 3.26.03 *MP* Reviewed by: *JS*
(date) (initials) (date)

Submitted to Council: _____
(date)

Action by Committee: ☐ Approved ☐ Adverse ☐ Held ☐ Amended
☐ Substitute ☐ Referred ☐ Other